IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

WP(C).No. 29078 of 2007(J)

PETITIONER:

C.S.Jayadas, aged 34 years, S/o. Sreedharan Ezhuthassan, Chorakkattuvalappil House, Varadiyam, Avanoor,Thrissur, rep.BY by its Partner, Chemiplast Industries, Peramangalam, Thrissur.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

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1. State of Kerala, rep. by District Collector, Thrissur.

2. The Deputy Tahsildar (RR), Thrissur.

3. The Village Officer, Avanoor Village Office, Thrissur.

4. The Commercial Tax Officer, IIIrd Circle, Department of Commercial Taxes, Thrissur.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 1/10/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.29078 of 2007

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Dated this the 1st day of October, 2007.

JUDGMENT

This Writ Petition is filed seeking to set aside Ext.P4 order whereby the court refused to grant permission to move the suit without compliance of notice under Section 80(1) of C.P.C. At the outset I may make it clear that I am not entering the merits or demerits of the case. The court below mainly refused permission on the ground that the revenue recovery notice was received by the plaintiff on 23.7.2007. A perusal of the plaint averments in paragraph 3 would reveal that the demand notice, according to the plaintiff, was served on the plaintiff only on 19.9.2007. The relief sought for in the plaint is with respect to a decree for permanent prohibitory injunction restraining the defendants from taking any action against the plaintiff in pursuance of the revenue recovery proceedings. The reliefs sought for is of an emergent nature and I find that circumstances

exist to grant permission to the plaintiff to move the court without notice under Section 80(1) of C.P.C. Section 80(2) of C.P.C. also safeguards that as far as interim orders are concerned, it shall be only given after hearing the concerned Government Pleader.

2. Therefore, the order under challenge is set aside. Leave is granted under Section 80(2) of C.P.C. to file the case and the learned Subordinate Judge is directed to proceed further in accordance with law.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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